

JUNE 9, 2004

The Regular Meeting of the Rockingham County Board of Supervisors was held on Wednesday, June 9, 2004, at 3:00 p.m. at the Rockingham County Administration Center, Harrisonburg, Virginia. The following members were present:

PABLO CUEVAS, Election District #1
CHARLES W. AHREND, Election District #2
DEE E. FLOYD, Election District #3
WILLIAM B. KYGER, JR., Election District #4
MICHAEL A. BREEDEN, Election District #5

Also present:

JOSEPH S. PAXTON, County Administrator
G. CHRIS BROWN, County Attorney
STEPHEN G. KING, Deputy County Administrator
JAMES L. ALLMENDINGER, Director of Finance
WENDELL J. EBERLY, Director of Recreation and Facilities
JENNIFER M. HOOVER, Director of Public Works
FRANKLIN P. O'BYRNE, Director of Information Systems
STEPHEN R. RIDDLEBARGER, Director of Human Resources
ROBERT A. SYMONS, Director of Fire & Rescue
WILLIAM L. VAUGHN, Director of Community Development
DIANA C. STULTZ, Zoning Administrator
DOTTIE L. BOWEN, Deputy Clerk
DONALD F. KOMARA, Resident Engineer
Virginia Department of Transportation

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CALL TO ORDER
PLEDGE OF ALLEGIANCE AND INVOCATION.

Chairman Ahrend called the meeting to order at 3:00 p.m.

Director of Finance Allmendinger led the Pledge of Allegiance, and Administrator Paxton gave the invocation, asking for a moment of silence in memory of former President Ronald Reagan, who died recently.

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APPROVAL OF MINUTES.

On motion by Supervisor Floyd, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the Minutes of the Regular Meeting held on May 26, 2004.

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TRANSPORTATION DEPARTMENT.

The Board heard Mr. Komara's report on the activities of the Transportation Department.

Supervisor Kyger asked that attention be given to mowing and clean up around the gateways going into the Town of Bridgewater the week of July 12, 2004, when the State Little League Softball Championships will be held in Bridgewater.

Supervisor Breeden pointed out information the Board received from staff concerning the number of accidents that have occurred on Route 340 at the intersection of Island Ford Road and Eastside Highway for the period January 1, 2003, to June 1, 2004. During this time period there were five accidents requiring a response from emergency service personnel, on 10/21/2003, 12/4/2003, 1/23/2004, 3/13/2004 and 5/23/2004.

Supervisor Floyd asked Mr. Komara to check on the plans for the crossing light on Route 689.

In response to a question from Chairman Ahrend concerning improvements to Route 721, Mr. Komara said the project should be started by July 1, 2004.

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TREATMENT COORDINATION FOR CHILDREN IN RESIDENTIAL CARE WITH COMPREHENSIVE SERVICES ACT PROGRAM.

The Board heard a presentation by Charlotte V. McNulty, Executive Director, Community Services Board, concerning her proposal to the local Community Planning and Management Team to coordinate treatment for children that are currently in residential care with the Comprehensive Services Act Program.

She indicated that the Community Services Board will go forward with this plan and noted that the cooperation and participation of the other service agencies in the County will be instrumental in the success of the program. There was unanimous agreement to ask staff to draft a letter to send to the Public School System, the Health Department, the Social Services District and the Court

System (with a copy of the letter to go to the City of Harrisonburg) - encouraging their participation in this program.

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**PROPOSAL TO SPLIT CURRENT PORT REPUBLIC PRECINCT
INTO TWO PRECINCTS.**

The Board discussed a proposal by Supervisor Floyd to consider splitting the current Port Republic Precinct into two precincts, thereby creating the Peak View Precinct. The purpose for creating two precincts would be to significantly reduce the travel time for those citizens located in the northern part of the current precinct. On motion by Supervisor Floyd, seconded by Supervisor Cuevas and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized advertising the necessary amendment to Chapter 6-A, Elections, Rockingham County Code, to be considered by the Board on June 23, 2004.

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COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. Paxton's staff report dated June 4, 2004, including information on motor vehicle accident reports for the intersection of Island Ford Road and Eastside Highway - five accidents requiring a response from emergency service personnel; the proposed Radio Communications System; and economic development matters.

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**RESOLUTION NO. 04-12 - COORS-SHENANDOAH HELICOPTER PAD,
EAST ROCKINGHAM.**

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board adopted the following resolution.

RESOLUTION NO. 04-12

WHEREAS, on Friday, June 11, 2004, an emergency services helicopter landing pad will be dedicated on the east side of the County; and

WHEREAS, the landing pad is located on property generously provided by Coors - Shenandoah; and

WHEREAS, this facility fills a critical need and will serve as a primary landing site for Pegasus, the medical emergency helicopter, to airlift sick and injured patients to the University of Virginia Hospital where they can receive advanced life care; and

WHEREAS, by providing this property for the location of the landing pad, Coors - Shenandoah has made it possible to greatly reduce the response time for advanced emergency care for those in need on the east side of the County;

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Board of Supervisors of the County of Rockingham, Virginia, that said Board does recognize and applaud the Coors - Shenandoah for taking leadership in the community and providing the property for construction of the landing pad.

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COUNTY ATTORNEY'S STAFF REPORT.

Mr. Brown advised that he has been working on an expansive soils policy and invited the Board members to give him their comments before the next meeting.

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DEPUTY COUNTY ADMINISTRATOR'S STAFF REPORT.

The Board received and reviewed Mr. King's staff report dated June 4, 2004, including information concerning Shenandoah Battlefields signage and the projected schedule for the infrastructure for the Technology and Industrial Park. He noted that the County has submitted an application for a VACo 2004 Achievement Award for the renovation of the property in Timberville for the Plains District Community Center.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized awarding the contract for the signs for the Shenandoah Valley Battlefields National Historic District to Kirk-Neal, Inc., the only bidder, in the amount of \$86,653.68. This project is financed by a Federal TEA-21 grant sufficient to cover the cost of the entire project. No County funds will be

utilized. The actual award will not occur until VDOT has approved the bid and given its authorization to award the contract.

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FINANCE DIRECTOR'S STAFF REPORT.

Mr. Allmendinger did not have a written report.

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HUMAN RESOURCES DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Riddlebarger's staff report dated May 26, 2004, including information concerning a proposed policy for Suspected Fraud & Dishonesty and a Vehicle Operators Policy.

On motion by Supervisor Kyger, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board approved the following policies as recommended.

POLICY ON SUSPECTED FRAUD AND DISHONESTY

Introduction

As with any organization, the County is faced with risks from dishonesty and fraud and must be prepared to manage these risks and their potential impact in a professional manner. The County must be especially concerned with such risks because it has fiscal responsibilities for the care and proper use of taxpayer money.

The impact of fraud and dishonesty may include:

- the actual financial loss incurred
- damage to the reputation of the County and its employees
- negative publicity and loss of public confidence
- the cost of investigation
- loss of employees
- damaged relationships with contractors and suppliers
- litigation
- damaged employee morale

The goal is to establish and maintain a business environment of fairness, ethics and honesty for employees, citizens, suppliers and anyone else with whom the County has a relationship. Maintaining such an environment requires the active assistance of all employees and supervisors every day.

The County is committed to the deterrence, detection and correction of fraud and dishonesty. The discovery, reporting and documentation of such acts provides a sound foundation for the protection of innocent parties, the taking of disciplinary action against offenders up to and including dismissal where appropriate, the referral to law enforcement agencies when warranted by the facts, and the recovery of assets.

Purpose

The purpose of this document is to communicate County policy regarding the deterrence and investigation of suspected fraud and dishonesty by employees and others, and to provide specific instructions regarding appropriate action in case of suspected violations.

Definition of Fraud and Dishonesty

For purposes of this policy, fraud and dishonesty include but are not limited to:

- theft or other misappropriation of assets, including assets of the County, citizens, suppliers or others with whom we have a legal or business relationship
- misstatements and other irregularities in County records, including the intentional misstatement of the results of operations
- forgery or other alteration of documents
- fraud and other unlawful acts
- any similar acts.

Policy and Responsibilities

Reporting

It is the responsibility of each employee, supervisor, manager, director and administrator to immediately report **suspected** fraud or dishonesty to their department head. Department Heads, when made aware of such alleged act, must immediately report such act to the County Administrator. Reprisal against an employee or other reporting individual for reporting a violation is strictly forbidden.

Department Heads, while appropriately concerned about "getting to the bottom" of such issues, should not in any circumstances investigate on their own. All alleged incidents shall be referred immediately to the County Administrator.

To facilitate reporting of suspected violations, especially in those situations where the reporting individual wishes to remain anonymous, employees may report their suspicions to the County Administrator either in writing or via telephone.

Additional Responsibilities of Supervisors, Managers and Department Heads

Employees have a responsibility to report suspected violations. However, employees with supervisory and review responsibilities have additional deterrence and detection duties. Specifically, supervisors have three additional responsibilities.

First, be aware of what can go wrong.

Second, put into place and maintain effective monitoring, review and control procedures which will prevent acts of wrongdoing.

Third, put into place and maintain effective monitoring, review and control procedures which will assist in detecting acts of fraud or dishonesty promptly should prevention efforts fail.

Supervisors may contact the County Administrator for assistance.

Responsibility and Authority for Follow Up and Investigation

The County Administrator has the primary responsibility for all investigations involving the County and may designate other County employees and agents to an investigative team.

Persons designated as members of the investigative team will have:

- Free and unrestricted access to all County records and premises.
- The authority to examine, copy and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities (whether in electronic or other form) without the prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of investigative or related follow up procedures.

All investigations of alleged fraud and dishonesty will be conducted in accordance with applicable laws and County procedures.

Reported Incident Follow Up Procedures

The general procedures for follow up and investigation of reported incidents are:

1. Employees and others must immediately report all factual details as indicated above under Policy and Responsibilities.
2. The County Administrator has the responsibility for follow up and, if appropriate, investigation of all reported incidents.
3. All records related to the reported incident will be retained wherever they are located.

4. Only the County Administrator or his or her designee may communicate with the suspected individuals or organizations about the matter under investigation.
5. In appropriate circumstances and at the appropriate time, the employee's supervisor, manager or department head will be notified of the status of the investigation.
6. The County Administrator may obtain the advice of the County Attorney at any time throughout the course of an investigation or other follow-up activity on any matter related to the report, investigation steps, proposed disciplinary action or any anticipated litigation.
7. Neither the existence nor the result of investigations or other follow-up activity will be disclosed or discussed with anyone other than those persons who have a legitimate need to know in order to perform their duties and responsibilities effectively.
8. The County Administrator shall have the discretion to retain the services of third parties such as accountants, attorneys, and other professionals and technical experts to assist in any investigation.
9. All inquiries from an attorney or any other contact from outside of the County, including those from law enforcement agencies or from the employee under investigation, shall be referred to the County Attorney.

Questions or Clarifications Related to This Policy

All questions or other clarifications of this policy and its related responsibilities should be addressed to the County Administrator, who shall be responsible for the administration, revision, interpretation, and application of this policy.

VEHICLE OPERATOR POLICY

Only employees approved by the County Administrator or a Department Head may operate a County vehicle. An employee must be at least eighteen (18) years old with a good driving record and a current license. An employee is eligible to drive a county vehicle upon satisfactory review of his or her Motor Vehicle Report (MVR).

Drivers' MVRs are reviewed annually. Any time a driver no longer meets the qualifications, he or she will be prohibited from driving a County vehicle until his or her record once again meets the County's driving record requirements.

Employees driving County vehicles have an obligation to report ticketing for offenses in addition to the outcome of ticketing.

A driving record is considered unacceptable if the current MVR includes either of the following within the last (3) years:

- Any major (Type "A") violation, or
- Any combination of three (3) minor (Type "B") violations and/or at-fault accidents.

Major violations (Type "A"):

- Driving while intoxicated, or any reference to "implied consent" or open container violations.
- Driving under the influence of drugs or alcohol.
- Negligent homicide arising during a period of the use of a motor vehicle.
- Operating a motor vehicle during a period of suspension or revocation.
- Using a motor vehicle for commission of a felony.
- Aggravated assault with a motor vehicle.
- Operating a motor vehicle without the owner's authority (grand theft).
- Permitting an unlicensed person to drive.
- Reckless driving or careless, wanton or negligent driving.
- Speed contest (racing).
- Hit and run (Bodily Injury and/or Property Damage) driving.

Minor violations (Type "B"):

- Any moving violation not listed above.
- Any violations arising out of an accident will be considered a single event (in conjunction with the accident).

Accidents:

All accidents are considered to be "at fault" unless the driver can provide evidence to the contrary (such as a police accident report) which clearly states that the driver was not at fault. *Accidents involving County vehicles must be reported immediately to employee's Department Head. A review of the circumstances surrounding the accident will be made by the employee's Supervisor and Department Head utilizing reports of the accident including those filed by the employee and by the appropriate law enforcement agency. If the accident is found to be the result of the employee's negligence, the employee may be required to pay any insurance deductible. The employee may request that the County Administrator review the decision of the Department Head.*

Corrective Action:

When any employee commits a major violation (Type "A") his or her driving authorization will be terminated immediately. After an employee has accumulated a total of three (3) minor violations (Type "B") within a three-year period his/her driving authorization will be terminated immediately.

How to reinstate:

After an employee has been removed from the driving list, he or she must have three years of driving with no further violations to be reinstated as a County vehicle driver. If the employee enrolls in and passes a defensive driving course, he or she may be approved to drive if monitored in less than three years. Each case will be decided on its individual merits.

Employees authorized to operate County vehicles must comply with the following:

1. Drivers are expected to see that the vehicle is properly filled with gas and oil and to notify management of any problems recognized. Drivers will be held responsible for damages caused by negligence.
2. Vehicles are to be operated in a safe manner.
3. Seat belts are to be worn at all times.
4. There is to be no personal use of County vehicles.
5. All County vehicles must be returned to the office at the end of the working day unless prior approval is obtained.
6. Drivers must maintain the vehicle in a neat and clean condition.

Employees not complying with the above operating procedures may be subject to corrective action at the County's discretion as listed below:

First Offense: Verbal corrective warning. Note recorded in personnel file.
Second Offense: Written corrective warning. Copy to employee and copy to personnel file.
Third Offense: Corrective action up to and including termination of employment.

The County Administrator or his designee may, at any time, determine to prohibit an employee from driving on County time and for County business, for reasons of safety or concern for the general public interest and the interest of the County.

Supervisor Cuevas asked that employees be given a copy of the information concerning their responsibilities and be required to sign it before they drive a County vehicle.

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PUBLIC WORKS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Ms. Hoover's staff report dated June 4, 2004, including information concerning progress on the sewer project for Route 11 North; Lilly Gardens; Countryside water system; Penn Laird Drive and Water Tower Road sewer; Lakewood/Massanetta Springs pump station, Spotswood High School waterline extension, Wal-Mart water and sewer project, Three Springs back-up power, Grottoes Container Site, and Harrisonburg Waste to Energy Plant.

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COMMUNITY DEVELOPMENT DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Vaughn's staff report dated June 1, 2004, including information concerning Planning Commission activities, the proposed Subdivision Ordinance re-write, the McGaheysville Area Study, the Subdivision Ordinance Re-Write (Public Hearing set for 7:00 p.m.), projects underway, upcoming requests, tabled requests and Community Development Activity Report

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INFORMATION SYSTEMS DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. O'Byrne's staff report dated June 3, 2004, including information concerning projects for the ICHRIS server, the Courthouse, video-conferencing, Web Page re-redesign, Public Works Work Order Software; equipment for the Reassessment computer, Remote Access Dial-In Computer, Bar Coding of County Bills; and activities of the Data Processing Advisory Committee.

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FIRE AND RESCUE CHIEF'S STAFF REPORT.

The Board received and reviewed Chief Symons' staff report dated June 1, 2004, including information concerning training, meetings attended, projects, fire training, prevention division activities, and public education.

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RECREATION AND FACILITIES DIRECTOR'S STAFF REPORT.

The Board received and reviewed Mr. Eberly's staff report dated June 3, 2004, including information concerning the Technology & Industrial Park, the Plains District Community Center, District Courts renovation project, Convention and Visitors Bureau building renovations, Recreation programs, and upcoming programs - summer playgrounds and sports camps.

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WORKFORCE INVESTMENT BOARD.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board reappointed Kim Harper to the Workforce Investment Board for a term beginning July 1, 2004, and ending June 30, 2006.

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RECESS.

At 4:14 p.m., Chairman Ahrend declared the meeting recessed for dinner and a visit to the site of the David Madison rezoning request and the Timmons special use permit.

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PUBLIC HEARING - AMENDMENT TO FY2004-2005 ADOPTED BUDGET.

At 6:45 p.m., Chairman Ahrend called the meeting back to order and then declared the meeting recessed for a public hearing on an amendment to the Fiscal Year 2004-2005 Adopted Budget to incorporate funding approved with the adoption of the budget by the Commonwealth of Virginia.

Mr. Paxton reviewed the particulars of the proposal.

Harold Roberts asked how the money would be used, whether any revenues would be reduced.

Mr. Paxton explained that when the School Board presented its budget, some of the items were not funded by the Board. He noted that those items would now be funded as well as some teaching and staff positions in the technology area that are required by the State and for which the State will be paying. He added that, as a result of the additional State funds, the County would have \$900,000 that would go into future building projects, thereby allowing the County to avoid borrowing money for such projects.

There were no other requests to speak on this matter. Action will be scheduled for the Board's agenda on June 23, 2004.

Chairman Ahrend closed the public hearing and called the regular session back to order at 6:55 p.m. He declared a five-minute recess until 7:00 p.m.

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PUBLIC HEARING - SPECIAL USE PERMITS.

At 7:00 p.m., Chairman Ahrend called the meeting back to order and then declared it open for a Public Hearing on the following special use permit applications. Ms. Stultz reviewed the details of each request.

S04-26, request of Javier Rodriguez - El Dorado Grocery, 3432 North Valley Pike, Harrisonburg, for a permit for a game room with 7 pool tables (indoor entertainment) on property located on the east side of North Valley Pike (Route 11) approximately 300' north of Northwood Lane (private road) in Linville Magisterial District, Election District #2, zoned B-1. Tax Map #95C-(8)-T3.

The applicant was not present.

No opposition was expressed.

S04-27, request of Warren Scott & Sherri Carper, 379 Cub Lane, Massanutten, for a permit for a residence involving division of land (from parents to daughter) on property located on the northeast side of Dearing Lane (private road) approximately 600 yards southeast of Fox Mountain Road (Route 759) in Stonewall Magisterial District, Election District #5, zoned A-1. Tax Map #116-(A)-35A.

The applicant was present to answer questions.

No opposition was expressed.

S04-28, request of Allon H. Lefever, 1270 Harmony Drive, Harrisonburg, for a permit for a bed and breakfast (2 units) on property located on the north side of Eversole Road (Rt. 766) approximately 260' west of Switchboard Road (Route 910) in Central Magisterial District, Election District #2, zoned A-2. Tax Map #93-(A)-28A.

The applicant was present to answer questions.

No opposition was expressed.

S04-29, request of Susan C. Caldwell, 1455 Crab Run Road, Mathias, WV, for a permit to convert a single-family dwelling to a two family dwelling on property located on the southeast side of Concord Church Road

(Route 793) and Hupp Road (Route 799) in Plains Magisterial District, Election District #1, zoned A-2. Tax Map #53-(A)-58.

Tom Parsons, neighbor from across the road, expressed concern about the septic system. He said it was his understanding that the system was reduced by permit to a three-bedroom dwelling with an electric pump that pumps the sewage into the drainfield. He stated that a stream runs from the applicant's property into his pasture during a heavy rain. He asked what would happen if the property were rented to two families and the electric pump went out. He wanted to know who would be responsible if the septic overflowed and went onto his property. He objected to putting a two-family dwelling in a quiet agricultural area.

Ms. Stultz explained that according to information she received the Health Department would require that the septic system be increased to five bedrooms.

Charlie Ray said a petition was gathered in opposition to the request.

Ms. Caldwell said a Health Department representative visited the site. She pointed out that the original plan was for a six-bedroom system but the previous owner decided she did not need that much capacity. She noted that the house had been used as rental property, and several families lived in it. She noted that a drainfield was already installed for a five-bedroom house, and only a larger tank would be necessary.

Mr. Parsons wanted to know if the permit defined a "family." Chairman Ahrend explained that the criteria related to the number of bedrooms, not the number of people living in the house.

S04-30, request of Faith Baptist Church, 11235 Early Drive, Broadway, for a permit for a residence (church parsonage) on property located on the west side of Harpine Highway (Route 42) approximately 100' west of Early Drive (Route 1415) in Plains Magisterial District, Election District #1, zoned A-1. Tax Map #51-(A)-132A.

Kevin Garber was present to represent the applicant.

No opposition was expressed.

S04-32, request of Ronnie Phillips, 8729 Beagle Lane, Harrisonburg, for a permit for a residence involving division of land to non-family member on property located on the west side of Mountain Valley Road

(Route 620) approximately 1 mile north of Martz Road (Route 806) in Plains Magisterial District, Election District #1, zoned A-1. Tax Map #82-(A)-87.

The applicant was present to answer questions.

No opposition was expressed.

S04-33, request of Darl Thomas Chenoweth, 2847 Spaders Church Road, Harrisonburg, for a permit for a second residence for his daughter on property located on the southeast side of Spaders Church Road (Route 689) approximately 1.5 miles southwest of Port Republic Road (Route 659) in Ashby Magisterial District, Election District #3, zoned A-2. Tax Map #125-(A)-51D.

The applicant was not present.

No opposition was expressed.

S04-34, request of Great Eastern Resort Corporation, 610 W. Rio Road, Charlottesville, for extension of Tele-communication facility from 125' to 140' on property located on a private right-of-way south of the dead-end of Ranier Road in Massanutten Development in Stonewall Magisterial District, Election District #5, Zoned R-4. Tax Map #127-(A)-27A.

Paige Huffer, representing the applicant, read a statement concerning the request. She noted that it was the result of a zoning violation that resulted from several entities collocating on the tower and causing it to be higher than was previously permitted by the Board.

No opposition was expressed.

Chairman Ahrend closed the public hearing and called the regular session back to order at 7:25 p.m.

Chairman Ahrend stated he knew of no objections to this request and therefore asked a member of the Board to bring forth a motion to approve this request.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0,

voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-26, request of Javier Rodriguez - El Dorado Grocery, 3432 North Valley Pike, Harrisonburg, for a permit for a game room with 7 pool tables (indoor entertainment) on property located on the east side of North Valley Pike (Route 11) approximately 300' north of Northwood Lane (private road) in Linville Magisterial District, Election District #2, zoned B-1. Tax Map #95C-(8)-T3.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Alterations to the building shall comply with the Virginia Statewide Universal Building Code, and the proper permits shall be obtained.
- (3) When available, county water and sewer shall be utilized as required by Health Department.
- (4) There shall be no parking on the State right-of-way.
- (5) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (6) This permit is contingent upon a site plan being submitted to and approved by the County. No permits shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.
- (7) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (8) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (9) Off-street parking shall comply with the Rockingham County Code.
- (10) This business shall not begin operation until such time as a certificate of occupancy is issued by the County if required by the Building Official. If required, no certificate of occupancy shall be issued until all other conditions of this permit are met.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-27, request of Warren Scott & Sherri Carper, 379 Cub Lane, Massanutten, for a permit for a residence involving division of land (from parents to daughter) on property located on the northeast side of Dearing Lane (private road) approximately 600 yards southeast of Fox Mountain Road (Route 759) in Stonewall

Magisterial District, Election District #5, zoned A-1. Tax Map #116-(A)-35A.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) Property shall be accessed from a new right-of-way and a copy of the entrance permit shall be submitted to the Department of Community Development prior to deed exception approval.
- (4) If deed exception is made within one year from date of approval of the special use permit, the residence on the property shall be exempt from the one-year completion date.
- (5) If the new residence is a manufactured home, it shall be skirted and the tongue removed, unless included in the skirting, within sixty (60) days from final inspection.
- (6) This residence shall not be used for rental purposes.
- (7) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

At Chairman Ahrend's request, on motion by Supervisor Floyd, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-28, request of Allon H. Lefever, 1270 Harmony Drive, Harrisonburg, for a permit for a bed and breakfast (2 units) on property located on the north side of Eversole Road (Rt. 766) approximately 260' west of Switchboard Road (Route 910) in Central Magisterial District, Election District #2, zoned A-2. Tax Map #93-(A)-28A.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Alterations to the existing residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) As required by VDOT both entrances shall be paved to a minimum width of 24 feet for a distance of 25 feet from the edge of pavement on Eversole Road.
- (4) As required by the Health Department, there shall be no more than six occupants in the residence (including any full-time residents).
- (5) This permit is contingent upon a site plan being submitted to and approved by the County. No permits

shall be issued by the Department of Community Development and no work shall be done on the property until such time as a site plan is approved.

- (6) On-premise advertising sign shall comply with the Rockingham County Code, and a permit shall be obtained for any sign.
- (7) There shall be no off-premise signs allowed unless all County and VDOT requirements for outdoor advertising signs are met.
- (8) Off-street parking shall comply with the Rockingham County Code.
- (9) This business shall not begin operation until such time as a certificate of occupancy is issued by the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

In regard to the Caldwell request, Supervisor Cuevas pointed out that the Board had to respect the rights of the individual and the community. He noted that the responsibility deals with such matters as safety, traffic, and environmental concerns. He said he was concerned about relying on a cistern for multi-family rental purposes and about creating a precedent for future requests of this type. On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board denied S04-29, request of Susan C. Caldwell, 1455 Crab Run Road, Mathias, WV, for a permit to convert a single-family dwelling to a two family dwelling on property located on the southeast side of Concord Church Road (Route 793) and Hupp Road (Route 799) in Plains Magisterial District, Election District #1, zoned A-2. Tax Map #53-(A)-58.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-30, request of Faith Baptist Church, 11235 Early Drive, Broadway, for a permit for a residence (church parsonage) on property located on the west side of Harpine Highway (Route 42) approximately 100' west of Early Drive (Route 1415) in Plains Magisterial District, Election District #1, zoned A-1. Tax Map #51-(A)-132A.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.

- (3) In accordance with VDOT requirements while this residence is a part of the church's property, it shall be accessed from the existing church entrance off of Early Drive. Should at some later date the residence not be a part of the church property, VDOT may approve an entrance off of Harpine Highway.
- (4) Residence shall be hooked to the Broadway town sewer and shall meet the town requirements per letter dated June 4, 2003.
- (5) This residence shall not be used for rental purposes except it may be rented as the church parsonage if the church so desires.
- (6) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

Noting that the Phillips request was not for a family member and to allow this permit would remove A-1 land from a contiguous farm so that it can be used for residential purposes, on motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board denied S04-32, request of Ronnie Phillips, 8729 Beagle Lane, Harrisonburg, for a permit for a residence involving division of land to non-family member on property located on the west side of Mountain Valley Road (Route 620) approximately 1 mile north of Martz Road (Route 806) in Plains Magisterial District, Election District #1, zoned A-1. Tax Map #82-(A)-87.

On motion by Supervisor Kyger, seconded by Supervisor Breeden and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-33, request of Darl Thomas Chenoweth, 2847 Spaders Church Road, Harrisonburg, for a permit for a second residence for his daughter on property located on the southeast side of Spaders Church Road (Route 689) approximately 1.5 miles southwest of Port Republic Road (Route 659) in Ashby Magisterial District, Election District #3, zoned A-2. Tax Map #125-(A)-51D.

- (1) The use shall be located in substantial accordance with plot plan as approved by the Board of Supervisors.
- (2) Residence shall comply with the Virginia Uniform Statewide Building Code, and the proper permits shall be obtained.
- (3) Manufactured home shall be skirted and the tongue removed, unless included in the skirting, within sixty (60) days from final inspection.

- (4) An entrance permit shall be obtained from VDOT's Harrisonburg Residency and shall be submitted to the Community Development Department prior to obtaining permits.
- (5) This permit is contingent upon applicant obtaining an on-site sewage disposal system permit from the Health Department. A copy of said permit shall be presented to the Community Development Department prior to deed exception approval.
- (6) This residence shall not be used for rental purposes.
- (7) This residence shall not be occupied until a certificate of occupancy is issued from the County. No certificate of occupancy shall be issued until all other conditions of this permit are met.

On motion by Supervisor Breeden, seconded by Supervisor Floyd and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; subject to the following conditions, the Board approved S04-34, request of Great Eastern Resort Corporation, 610 W. Rio Road, Charlottesville, for extension of tele-communication facility from 125' to 140' on property located on a private right-of-way south of the dead-end of Ranier Road in Massanutten Development in Stonewall Magisterial District, Election District #5, Zoned R-4. Tax Map #127-(A)-27A.

- (1) Use shall be located in accordance with plot plan as approved.
- (2) Tower shall comply with the Virginia Uniform Statewide Building Code, and the necessary building permits shall be obtained.
- (3) VDOT reserves the right to require future entrance upgrades should conditions warrant.
- (4) The telecommunications tower as approved under this permit shall not exceed 140 feet.
- (5) Approval shall not constitute or imply support for or approval of, the location of additional telecommunication towers, antennas, etc., even if they may be a part of the same network or system as any antenna approved under this section.
- (6) Should use of this facility be discontinued, applicant shall remove the tower from the property within ninety (90) days from date it is last used. If ownership of the tower changes hands, the owner at the time use is discontinued shall be responsible for its removal.
- (7) The owner or operator of the telecommunication tower shall meet all requirements of division 6A Telecommunications Facilities of the Rockingham County Code.

At 7:46 p.m., Chairman Ahrend declared the meeting open for a Public Hearing on an ordinance to amend and reordain Chapters 16 and 17, Rockingham County Code, pertaining to subdivision and zoning of Land.

Ms. Stultz reviewed the particulars of the proposal. "Some time ago the Board requested staff to draft changes to the subdivision ordinance to tighten up divisions of land in agricultural zones, thus preserving agriculture in Rockingham County. A committee was formed to work on these changes. That committee included the County Administrator, County Attorney, Deputy County Administrator, Public Works Director, Community Development Director, Fire Chief and myself, as Subdivision Agent. We also had input from VDOT and the Health Department. After staff completed the draft and prior to going to Planning Commission hearing, staff presented the proposed changes to the Real Estate Committee of the Bar Association, the Farm Bureau Association, two meetings with the Board of Realtors, the Shenandoah Valley Home Builders Association, and it was offered to the surveyors and engineers for review. We asked all of these entities to send comments, concerns and ideas back to the Subdivision Agent, but we heard nothing back from any of them. The ordinance was sent to the Planning Commission and after public hearing, a committee was formed to work with the Planning Commission on some items that were presented at the hearing. That committee included an attorney, a Realtor, the President of the Farm Bureau Association and a developer. Changes were made and another public hearing held before the Planning Commission. The Commission recommended approval with the changes and thus we are before the Board tonight." She then showed a slide presentation of the changes that had been made to the earlier version of the ordinance.

Tara Fulk said she was in favor of the ordinance as the Planning Commission had recommended it for the family division of agriculturally zoned land. She advised that her father owned 60 A1 acres on three separate deeds with Route 727 running through the property. She said the family wanted to get the farm in operation and preserve the farming heritage. She indicated that approval of the proposal would enable her to do so with an adjacent land transfer or family division.

Wayne Hatten asked the Board to "try to balance the traditional family farm that has been in the County for 200 years with a person like myself who wants to buy a five-acre plot of land on which to build a house."

Gary Burner said he was opposed to the 40-acre regulation. He thought it was "a pretty harsh penalty to place on a farmer or landowner." He indicated that the proposal was "too much to digest in a few hours" and said he thought there were "a lot of people in the County" who would have attended the hearing if they understood an item of such importance was coming before the Board." He said the new regulations would address the people with families and penalize those that did not have children, such as those who "might want to raise money to pay for a hospital bill or

tractor." He thought the Board should give consideration to giving people like Ms. Fulk the "exceptions she might need" but give the proposal more study.

Everett Rogers said the 40-acre minimum was unrealistic. He said the Board should be distinguishing between productive land and land that could not be used for agriculture.

Elaine Miller pointed out that the County had "some of the most beautiful farmland in the state" but also "some of the most miserable, rocky land." She said she would prefer that the Board distinguish between 40 acres of good farmland and 40 acres of land full of rocks. She said her land had never been plowed or mowed and she wanted to divide some of it. She said there were others with land like hers that could not be used for anything that would bring them a living.

Tom Weaver opposed the 40-acre proposal. He said the County had changed greatly in the last 10 to 15 years with people from northern Virginia moving in. He said the older people with 40 acres and no children would be "stuck," that they would not be able "to sell five acres to help with their retirement" because the farmer would "have his hands tied." He noted that the Mennonite community planned to have a produce auction in the middle of their acreage in order to help bring income into the farm.

Everett Smith said he had to sell 40-acre lots a couple of times. He pointed out that "people from the city don't mind paying the price and living in the middle of it." He said he did not have a retirement fund and needed to be able to have the flexibility of using his land as he needed. He asked the Board not to adopt the ordinance but to table it and give it more consideration.

Richard Robinson said he had been trying to get his son and family on 12 acres of his land. He reviewed the many attempts he had made to accomplish that desire and said he was glad to see the Board was going to enable a person to "give his children some land."

Keith Knupp was concerned that changes had been made several times to the original ordinance that was advertised. He said the public had not had an opportunity to review the most recent changes and asked that the Board table the proposal.

Chairman Ahrend closed the public hearing and called the regular session back to order at 8:50 p.m.

On motion by Supervisor Floyd, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board tabled the proposals.

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COMMITTEE REPORTS.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; as recommended by the Finance Committee, the Board took the following actions.

- As requested by the Director of Social Services, approved a supplemental appropriation in the amount of \$30,000 for foster care. These funds are 51.85% federal funded and 48.15% state funded, requiring no local match.

Supplemental Appropriation: \$30,000 GL Code: 220-05302-200-5705-000
(Aid to Families with Dependent Children- Foster Care)

- As requested by the Director of Social Services, approved a supplemental appropriation in the amount of \$7,375 for child day care and is funded 100% by Federal funds.

Supplemental Appropriation: \$7,375 GL Code: 220-05302-200-5740-000
(Child Day Care Quality Initiative)

Mr. Paxton noted that the Board had been given a copy of the Auditor's report related to the operations of the Clerk of the Circuit Court, which recommended the only matter of action for the Board involves the "proper disposition of passport fees." He pointed out that, when the Clerk first brought the matter of collection of passport fees to the Board's attention, several localities in Virginia were collecting the fees as local revenue. He noted that each locality is now being required to remit those fees (the County collected \$75,384.87) to the State. He said the County would receive two-thirds (\$50,507.86) of the fees back in excess fees.

On behalf of the Finance Committee, on motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board directed the Treasurer to remit the funds from the passport revenue account (001-01601-0300). Funds collected last fiscal year will be paid from the reserve.

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CLOSED MEETING.

On motion by Supervisor Kyger, seconded by Supervisor Floyd and carried by the following vote: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; and KYGER - AYE; the Board recessed the meeting from 9:05 to 9:45 p.m. to discuss disposition of the County Office Building as set forth by Virginia Code Section 2.2-3771(A)(3).

At 9:45 p.m., Chairman Ahrend called the meeting back to order and the following motion was adopted.

MOTION: SUPERVISOR KYGER RESOLUTION NO: X04-07
SECOND: SUPERVISOR FLOYD MEETING DATE: JUNE 9, 2004

CERTIFICATION OF CLOSED MEETING

WHEREAS, the Rockingham County Board of Supervisors has convened a Closed Meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by this Board of Supervisors that such Closed Meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Rockingham County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the Closed Meeting to which this certification resolution applies; and (ii) only such public business matters as were identified in the motion convening the Closed Meeting were heard, discussed or considered by the Board of Supervisors.

VOTE:
AYES: AHREND, BREEDEN, CUEVAS, FLOYD, KYGER
NAYS: NONE
ABSENT: NONE

Dottie L. Bowen, Deputy Clerk

Chairman Ahrend called the regular session back to order at 9:45 p.m.

On motion by Supervisor Cuevas, seconded by Supervisor Kyger and carried by a vote of 5 to 0, voting recorded as follows: AHREND - AYE; BREEDEN - AYE; CUEVAS - AYE; FLOYD - AYE; KYGER - AYE; the Board authorized the County Administrator to finalize negotiations and execute a real estate sales contract with Court Square Properties, LLC,

for the sale of the County Office Building, located at 2 Main Street, for \$625,000 and other rental considerations and, further, authorized staff to advertise a public hearing on this matter.

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INFORMATION ITEMS.

The Board received the following Information Items from the County Administrator:

- a. Letter dated June 3, 2004, from Delegate Glenn Weatherholtz concerning Medicaid reimbursement funding for OB/GYN physicians.
- b. Building Inspections Report for May 2004.
- c. Rent/Lease Payments report for April billing.
- d. Letter dated June 1, 2004, from Central Shenandoah Planning District Commission re Virginia Department of Aviation, Six Year Capital Improvement Plan and Preapplication, Shenandoah Valley Regional Airport.

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ADJOURNMENT.

By consensus, the Board adjourned the meeting at 9:46 p.m.

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Chairman